

JUL 23 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

**JOHN D., a married couple; and JANE D.,
a married couple,**

Plaintiffs - Appellants,

v.

**REGENTS OF THE UNIVERSITY OF
CALIFORNIA; MEMORIAL HEALTH
SERVICES, INC.; JANE FREDERICK,
M.D.; FRANCISCO J. ROJAS, Ph.D.;
MITCHEL C. SCHIEWE, Ph.D.;
MICHAEL BRODSKY, M.D.; PATRICIA
O'BRIEN, Ph.D.; KHALID M. SHEIKH,
Ph.D.; UCI CENTER FOR, aka
UCI-Saddleback Center for Reproductive
Health; ELLEN MARELLO; MARY
PICCIONE; HERB SPIWAK; DAVID
SWANBERG; ANDREW YIELDING;
SANDRA LIER; WENDALL BRASE;
SYDNEY GOLUB; THOMAS CESARIO,
M.D.; PHILLIP DISAIA, M.D.; THOMAS
GARITE; WALTER HENRY, M.D.;
PAUL NAJAR; DIANE GEOCARIS;
LAUREL WILKENING; JOHN
LUNDBERG; TERI ORD,**

No. 02-55602

D.C. No. CV-00-00471-DOC

MEMORANDUM*

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Defendants - Appellees.

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted July 9, 2003
Pasadena, California

Before: **KOZINSKI, FERNANDEZ** and **RYMER**, Circuit Judges.

1. The district court improperly granted the motion to dismiss for failure to state a claim. See Fed. R. Civ. Proc. 12(b)(6). To state a claim under 18 U.S.C. § 1964(c) (2000), a complaint must allege injury to a plaintiff's "business or property." Appellants pleaded "loss and injury to their personal property," "loss of money," and "loss of other cognizable 'property' interests." Third Am. Compl. for Damages ¶ 201. Appellants have adequately alleged their injury on the face of the complaint. See Nat'l Org. for Women, Inc. v. Scheidler, 510 U.S. 249, 256 (1994).

2. As alternate grounds for affirmance, appellees urge, as they did below, that appellants' claim is time-barred. However, we cannot affirm on such grounds at this stage of the pleadings. See Supermail Cargo, Inc. v. United States, 68 F.3d 1204, 1207 (9th Cir. 1995) ("[A] complaint cannot be dismissed unless it appears

beyond doubt that the plaintiff can prove no set of facts that would establish the timeliness of the claim.”).

REVERSED.